

Remarks

This reply is hereby submitted for the Examiner's consideration to comply with the objections or requirement of form expressly set forth in the Office Action, and to better place the present application in condition for allowance, in accordance with 37 C.F.R. § 1.116(a).

Reconsideration of this Application is respectfully requested.

Upon entry of this reply, claims 1-22 are pending in the application, with 1, 5, 6, 10, 12, and 16 being the independent claims.

Based on the following remarks, Applicant respectfully requests that the Examiner reconsiders all outstanding objections and rejections and that they be withdrawn.

Personal Interview with Examiner

A telephonic interview was held on Tuesday, September 23, 2003, between Examiner Robert Wilson, and Applicant's representative Kendrick Patterson (Registration. No. 45,321). Applicant would like to thank the Examiner for his indulgence and cooperation. During the interview, the Examiner and Applicant's representative discussed the Examiner's interpretation of the independent claims, especially claim 1. Although the Examiner clarified his interpretations, there were no discussions of the applied documents of record, or the propriety of the Examiner's claim construction.

Another telephonic interview was held on Tuesday, December 09, 2003, between Examiner Robert Wilson and Applicant's representative to discuss the current Office Action (Paper No. 12.) The Examiner confirmed that the current Office Action contains several errors. Primarily, the Examiner unintentionally restated rejections and objections that had been presented in the First Office Action (Paper No. 7, page 3), but had been overcome by an Amendment and Reply filed by the Applicant on April 16, 2003. The Examiner further stated that he had intended to base the current Office Action on the content of a Second Office Action (see Paper No. 10) issued by the Examiner. To further prosecution and the request of the Examiner, Applicant's representative agreed to respond to the current Office Action with consideration of the Examiner's errors as best understood.

Objections to the Drawings

In a previously issued Office Action (Paper No. 7), the Examiner communicated several objections to the Drawings that are stipulated on a Form PTO 948, dated January 2, 2003. Pursuant to 37 C.F.R. § 1.111(b), Applicant respectfully requests that these objections be held in abeyance until allowable subject matter is indicated since a reply to the objections is not necessary for further consideration of the claims.

Objections to the Claims

In the current Office Action, the Examiner sustains his objections to claims 18 and 19 as being dependent upon a rejected based claim 1, but asserts the claims would be allowable if rewritten in independent form. Paper No. 12, page 13. In light of the remarks herein, Applicant believes this objection has been rendered moot or is no longer

valid. However, Applicant reserves the right to amend said claims to be rewritten in independent form in a future amendment.

Rejections under 35 U.S.C. § 112, First Paragraph

In the current Office Action, the Examiner revives the rejections of claims 4, 16, and 17 under 35 U.S.C. § 112, first paragraph. Paper No. 12, page 2. The Examiner originally raised these rejections in the First Office Action (Paper No. 7, page 3), but did not restate the rejections in a Second Office Action (see Paper No. 10). During the aforementioned telephonic interview of December 09, 2003, the Examiner admitted to erroneously copying content from the First Office Action (see Paper No. 7). Applicant believes that these rejections were successfully overcome by an Amendment and Reply filed by the Applicant on April 16, 2003, since the rejections were not restated in the Second Office Action (see Paper No. 10). As such, Applicant believes that the Examiner's current rejections have been revived in error, and therefore, once again, respectfully requests reconsideration and withdrawal of the Examiner's rejections of claims 4, 16, and 17, and allowance thereof.

Rejections under 35 U.S.C. § 112, Second Paragraph

In the current Office Action, the Examiner revives the rejections of claims 4, 5, 16, and 17 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Paper No. 12, page 3. The Examiner originally raised these rejections in the First Office Action (Paper No. 7, pages 3-4), but did not restate the rejections in the Second Office Action (see Paper No. 10). During the aforementioned telephonic interview of December 09, 2003, the Examiner admitted to erroneously copying content from the First Office Action

(see Paper No. 7). Applicant believes that these rejections were successfully overcome by an Amendment and Reply filed by the Applicant on April 16, 2003, since the rejections were not restated in the Second Office Action (see Paper No. 10). As such, Applicant believes that the Examiner's current rejections have been revived in error, and therefore, once again, respectfully requests reconsideration and withdrawal of the Examiner's rejections of claims 4, 5, 16, and 17, and allowance thereof.

Rejections under 35 U.S.C. § 103

In the current Office Action, the Examiner revives the rejections of claims 1-17 under 35 U.S.C. § 103, as allegedly being obvious in view of the following documents:

- (1) U.S. Patent 6,389,038 B1 to Goldberg *et al.*, issued May 14, 2002 (herein referred to as "Goldberg");
- (2) U.S. Patent 6,438,105 B1 to Qarni *et al.*, issued August 20, 2002 (herein referred to as "Qarni"); and
- (3) U.S. Patent 6,438,606 B1 to Borella *et al.*, issued August 13, 2002 (herein referred to as "Borella").

The Examiner originally raised these rejections in the First Office Action (Paper No. 7, pages 3-4), but did not restate the rejections in a Second Office Action (see Paper No. 10). During the aforementioned telephonic interview of December 09, 2003, the Examiner admitted to erroneously copying content from the First Office Action (see Paper No. 7). Applicant believes that these rejections were successfully overcome by an

Amendment and Reply filed by the Applicant on April 16, 2003, since the rejections were not restated in the Second Office Action (see Paper No. 10).

However, in the Second Office Action (Paper No. 10), the Examiner rejected claims 1-17 and 20-22 under 35 U.S.C. § 103, as allegedly being obvious in view of the following documents:

- (1) Goldberg; and
- (2) U.S. Patent 6,442,169 B1 to Lewis, issued August 27, 2002
(herein referred to as "Lewis").

Although Applicant believes that these rejections were successfully overcome by an Amendment and Reply filed by the Applicant on August 18, 2003, Applicant provides the following remarks to further address concerns raised by the Examiner in his "Response to Arguments" presented in the current Office Action (Paper No. 12, page 14) and during the aforementioned telephonic interviews. For the Examiner's convenience, the following remarks are made in reference to the Examiner's rejections from the Second Office (Paper No. 10), which the Applicant believes has been successfully overcome.

a. Claims 1-3 and 20

In the Second Office Action (Paper No. 10), the Examiner rejected claims 1-3 and 20 as allegedly being obvious over Goldberg. See Paper No. 10, pages 2-3. Applicant believes that these rejections were successfully overcome by the Amendment and Reply

filed by the Applicant on August 18, 2003. However, the following remarks are provided to further distinguish Applicant's invention from Goldberg.

As previously argued in the Amendment and Reply filed by the Applicant on August 18, 2003, Goldberg does not teach or suggest each and every element and/or feature of Applicant's invention. For example, Goldberg does not teach or suggest "aggregating said packets into the larger data packet, said data packet including information for synchronizing a current channel state at the originating gateway with a record of said channel state at the destination gateway" [emphasis added], as recited in independent claim 1.

In the current Office Action, "the examiner broadly interprets the limitation 'synchronizing the state of the current channel' as meaning that the control synchronization bits tell how many packets are built into the SuperPacket or 'synchronizing the state of the current channel.'" (Paper No. 12, page 14). Without conceding or disputing the Examiner's interpretation, Applicant requests the Examiner to consider the language in Applicant's claim that follows the expression "synchronizing a current channel state at the originating gateway." This language introduces features and/or limitations, which are clearly not taught or suggested by Goldberg. Specifically, the passage that the Examiner cites in Goldberg (namely, "Col. 4, lines 51-60") does not teach or suggest that control bytes are synchronized with a record at a terminating gateway. This passage describes synchronization between a MUX proxy server and "outside channels" for sending packets. Goldberg teaches that its MUX "assembles and disassembles packets into SuperPackets" (see Col. 5, lines 40-42), and encodes the SuperPackets with synchronization bits so that the MUX, itself, can keep track of "the

number of regular packets that are consolidated into the SuperPacket” (see Col. 4, lines 55-64). This is not the Applicant’s invention.

As recited in claim 1, for example, Applicant’s “destination gateway” receives the “larger packet” with the “synchronization information” already included therein. It does not assemble the synchronization information as performed by Goldberg’s MUX. Additionally, Applicant’s “destination gateway” retains “a record” at its location that is synchronized with the “synchronization information.” Goldberg, on the other hand, does not teach or suggest that its originating or terminating gateways 200a-200b synchronizes its records with the synchronization bits assembled by MUX 230a.

Therefore, as stated in the Amendment and Reply filed by the Applicant on August 18, 2003, Applicant respectfully submits that Goldberg does not teach or suggest each and every element and/or feature of claim 1. Claims 2-4 and 18-20 depend from claim 1. Therefore, the dependent claims are patentable over Goldberg for at least the reasons stated above, in addition to the additional elements and/or features cited therein. Applicant respectfully requests reconsideration and withdrawal of the Examiner’s rejection of the aforementioned claims, and allowance thereof.

b. Claims 5, 10, 11, 16 and 17

In the Second Office Action (Paper No. 10), the Examiner rejected claims 5, 10, 11, 16 and 17 as allegedly being obvious over Lewis. See Paper No. 10, pages 5, 9, and 12-13. Applicant believes that these rejections were successfully overcome by the Amendment and Reply filed by the Applicant on August 18, 2003. If the Examiner maintains these rejections, Applicant respectfully requests that documentary evidence be provided to establish a prima facie case for the rejections. Applicant further respectfully

requests reconsideration and withdrawal of the Examiner's rejection of the
aforementioned claims, and allowance thereof.

c. Claims 4, 6-9, 12-15, 21 and 22

In the Second Office Action (Paper No. 10), the Examiner rejected claims 4, 6-9, 12-15, 21 and 22 as allegedly being obvious over Goldberg in view of Lewis. See Paper No. 10, pages 4, 6-8, and 10. Applicant believes that these rejections were successfully overcome by the Amendment and Reply filed by the Applicant on August 18, 2003. However, the following remarks are provided to further distinguish Applicant's invention from Goldberg and Lewis.

As discussed above with reference to claim 1, Goldberg does not teach or suggest "providing information in the data packet to synchronize a current channel state at the originating gateway with a record of said channel state at the destination gateway" [emphasis added], as recited in independent claims 6 and 12. In particular, the passage of Goldberg cited by the Examiner does not describe "a record at its terminating gateway." Lewis does not cure the deficiencies of Goldberg, and likewise does not teach or suggest this feature.

Accordingly, Applicant does not believe that Goldberg and Lewis, alone or taken together, teach or suggest each and every element and/or feature of dependent claim 4, and independent claims 6 and 12. Claims 7-9 and 21-22 depend from claim 6. Claims 11-15 depend from claim 12. Therefore, the dependent claims are patentable over Goldberg and Lewis for at least the reasons stated above, in addition to the additional elements and/or features cited therein. For example, regarding claims 21-22, Goldberg and/or Lewis does not teach or suggest transmissions between two "media framing

means” and/or between two “transmission control means.” The Examiner relies on Goldberg to teach a connection between two MUXes. See Paper No. 10, page 7. However, Goldberg does not describe the architecture of its MUXes, and hence, does not describe the existence or inter-relationships among specific elements (e.g., media framing means, transmission control means, etc.), as recited in Applicant’s invention. The Examiner argues that the “architecture of Muxes...is not a claimed limitation of the applicant.” Paper No. 12, page 14. However, the architecture of Applicant’s originating and destination gateways (e.g., “media framing means”, “transmission control means”) is a claimed limitation, and the Examiner has made a direct comparison between Goldberg’s MUX and Applicant’s originating and destination gateways, but has failed to teach or suggest how Goldberg’s MUX could be modified to teach Applicant’s invention.

Applicant respectfully requests reconsideration and withdrawal of the Examiner’s rejection of the aforementioned claims, and allowance thereof.

Conclusion

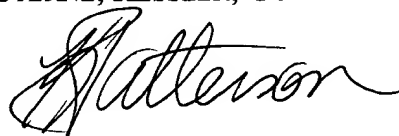
All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite

prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

A handwritten signature in cursive script, appearing to read "Kendrick P. Patterson".

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